

JOURNAL OF THE HOUSE.

Tuesday, June 15, 2004.

Met according to adjournment, at eleven o'clock A.M., with Mrs. Walrath of Stow in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Eternal God, the Ultimate Source of Forgiveness and Truth, we look to You, Our Creator, for guidance as we take up and discuss the items on the Calendar. As we address proposed legislation, inspire us to reason together in identifying issues, in evaluating proposals objectively and in analyzing the present and future consequences of our personal choices. As elected leaders, teach us to seek and speak truth at all times. At this joyous season of the year, commencement time, our best wishes go out to graduates, undergraduates and all students who have completed another milestone in their education process. Your assistance will enable us to provide today's students and future generations with a safe, peaceful, responsible and responsive society. Help us to achieve our goals.

Grant Your blessings on the Speaker the members and employees of this House and their families. Amen.

Pledge of allegiance.
and employees joined with her in reciting the pledge of allegiance to the flag.

Statement Concerning Representative Kennedy of Brockton.

A statement of Mr. DiMasi of Boston concerning Mr. Kennedy of Brockton was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Kennedy of Brockton, will not be present in the House Chamber for today's sitting due to personal business outside the Commonwealth. Any roll calls that he may miss today will be due entirely to the reason stated.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Fagan of Taunton) congratulating Anthony Michael Walsh on receiving the Eagle Award of the Boy Scouts of America.

Resolutions (filed by Mr. Kafka of Stoughton) congratulating Milton and Libby Kafka on the occasion of their sixtieth wedding anniversary.

Resolutions (filed by Messrs. O'Brien of Kingston and deMacedo of Plymouth) congratulating Steven W. Courts on receiving the Eagle Award of the Boy Scouts of America.

Anthony Michael Walsh.
Milton and Libby Kafka.
Steven W. Courts.

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Resolutions (filed by Messrs. O'Brien of Kingston and deMacedo of Plymouth) congratulating Patrick Cutting on receiving the Eagle Award of the Boy Scouts of America.

Resolutions (filed by Mrs. Poirier of North Attleborough) congratulating Leslie W. Cheyney on the occasion of his one hundredth birthday.

Resolutions (filed by Mr. Rush of Boston) recognizing Mark Ivey on his extraordinary service as student representative to the Brookline school committee; and

Resolutions (filed by Ms. Wolf of Cambridge) honoring Leslie H. Kimbrough.

Mr. DiMasi of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Kafka, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

Petitions severally were presented and referred as follows:

By Ms. Blumer of Framingham, petition (accompanied by bill, House, No. 4851) of Deborah D. Blumer (by vote of the town) relative to the appointment of certain commissions in the town of Framingham.

By the same member, petition (accompanied by bill, House, No. 4852) of Deborah D. Blumer (by vote of the town) relative to vacancy rules for town meeting members of the town of Framingham; and

By the same member, petition (accompanied by bill, House, No. 4853) of Deborah D. Blumer (by vote of the town) relative to town meeting members in the town of Framingham;

Severally to the committee on Local Affairs and Regional Government.

Severally sent to the Senate for concurrence.

Live writing, protection.

Petitions severally were presented and referred as follows:
By Mr. Casey of Winchester (by request), petition (subject to Joint Rule 12) of Stephen Edgell for legislation to protect pedestrians and animals from undetected live electric wiring on public walkways and streets.

By the same member (by request), petition (subject to Joint Rule 12) of Erin Barry for legislation to promote fitness for elementary school students in the Commonwealth.

By Mr. Connolly of Everett, petition (subject to Joint Rule 12) of Edward G. Connolly relative to bonds given to towns by constables for the service of civil process.

By the same member, petition (subject to Joint Rule 12) of Edward G. Connolly relative to bonds given to towns by constables for the service of civil process.

By Mr. Galvin of Canton, petition (subject to Joint Rule 12) of William C. Galvin, Louis L. Kafka and Brian A. Joyce relative to payments to certain retirees for services performed after retirement. Severally, under Rule 24, to the committee on Rules.

Pensioners, services.

Patrick Cutting.

Leslie W. Cheyney.

Mark Ivey.

Leslie H. Kimbrough.

Framingham, commissions.

Framingham, town meeting.

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R

Constables, bonds.

Elementary schools, dress.

Papers from the Senate.

Northbridge,
Liger
Horse.

The House Bill authorizing the town of Northbridge to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (House, No. 3935) came from the Senate passed to be engrossed, in concurrence, with an amendment in section 1, in line 5, inserting after the figures "138" the following: "to Car-Ray, Inc. d/b/a The Trading Post".

Under suspension of Rule 35, on motion of Mr. Peterson of Grafton, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Election
Laws
Committee,
Time for
reporting.

An Order relative to extending until Tuesday, June 15, 2004 the time within which the committee on Election Laws is authorized to report on current House documents numbered 2588 and 3854, came from the Senate with the endorsement that it had been adopted, in concurrence, by said branch with an amendment striking out the date "June 15" and inserting in place thereof the date "June 29".

Under suspension of the rules, on motion of Mr. Straus of Mattapoisett, the amendment was considered forthwith; and it was adopted, in concurrence.

Quincy/
senior citizen
safety zones.

A Bill authorizing the city of Quincy to establish senior citizen safety zones (Senate, No. 2216) (on Senate, No. 2168), passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Quincy/
Leo
Kelly.

Petitions were referred, in concurrence, as follows:
Petition (accompanied by bill, Senate, No. 2387) of Michael W. Morrissey, A. Stephen Tobin, Bruce J. Ayers and Ronald Mariano (with approval of the mayor and city council) for legislation to exempt Councilor Leo Kelly, from M.G.L. Chapter 268A, Section 20, municipal employees financial interests. To the committee on Public Service.

Petition (accompanied by bill, Senate, No. 2388) of Robert A. Haven (by vote of the town) for legislation relative to the town meeting of the town of Burlington. To the committee on Local Affairs and Regional Government.

Correctional
facilities/
inspection
reports.

Reports of the Department of Public Health (under the provisions of Sections 5 and 20 of Chapter 111 of the General Laws) relative to inspections of certain correctional facilities, as follows:
Of the Berkshire County House of Correction and Jail, in the city of Pittsfield;

Of the Franklin County House of Correction and Jail, in the town of Greenfield; and

Of M.C.I. Norfolk, in the town of Norfolk;

Severally were spread upon the records of the House; and returned to the Senate.

Reports of Committees.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, asking to be discharged from further consideration

Of the Bill relative to unsigned circulars and posters (House, No. 1078);

Of the Bill affecting county commissioners (House, No. 1324);

Of the Bill relative to the open meeting law (House, No. 1531);

Of the Bill relative to mufflers (House, No. 1722);

Of the Bill reducing unnecessary motor vehicle noise and vibration (House, No. 2508); and

Of the Bill relative to the residency of the town manager of the town of Concord (House, No. 4475) [Local Approval Received];

And recommending that the same severally be referred to the committee on Rules.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, asking to be discharged from further consideration

Of the Bill providing for a certain fund in cities and towns (House, No. 190);

Of the Bill relative to the joint operations of governmental units (House, No. 1151); and

Of the Bill relative to identity theft and consumer rights (House, No. 4556);

And recommending that the same severally be referred to the committee on Ways and Means.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

Mr. Scaccia of Boston, for the committee on Rules, on the Order relative to authorizing the committee on Insurance to make an investigation and study of certain House documents concerning insurance regulations (House, No. 4616), reported, in part, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 926) of Daniel F. Keenan relative to insurance companies, policyholders and the repairing of damaged motor vehicles, — and recommending that the same be recommended to the committee on Insurance. Under Rule 42, the report was considered forthwith; and it was accepted.

By Mr. Scaccia of Boston, for the committee on Rules, asking to be discharged from further consideration of the Order relative to authorizing the committee on Natural Resources and Agriculture to make an investigation and study of certain House documents relative to hunting and the use of traps in the Commonwealth (House, No. 4825), — and recommending that the same be recommended to the committee on Natural Resources and Agriculture. Under Rule 42, the report was considered forthwith; and it was accepted.

Circulars.

Counties.

Open meetings.

Mufflers.

Vehicle

noise.

Concord.

Coastal
damages.

Local
governments.

Identity
theft.

Damaged
motor
vehicles.

Hunting,
study.

Taxation,
study.

Charitable
organizations,
excise tax.
Real estate
assessment.

Mr. Scaccia of Boston, for the committee on Rules, on the Order relative to authorizing the committee on Taxation to make an investigation and study of certain House documents concerning revenue and taxation matters in the Commonwealth (House, No. 4651), reported, in part, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 1399) of Paul C. Demakis for legislation to exempt charitable organizations from the payment of the motor vehicle excise tax; and

Of the petition (accompanied by bill, House, No. 3080) of Robert A. DeLeo for legislation to further regulate appeals and abatements on personal property and real estate tax assessments.

And recommending that the same severally be recommitted to the committee on Taxation.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

Real
property,
study.

By Mr. Hall of Westford, for the committee on State Administration, on Senate Nos. 1634, 1650, 1662, 1677, 1680, 1689, 1696, 1708, 1978 and 2346 and House Nos. 41, 42, 264, 449, 842, 1207, 1377, 1591, 2692, 3441, 3595, 3704, 4335, 4492, 4530 and 4596, an Order relative to authorizing the committee on State Administration to make an investigation and study of certain Senate and House documents concerning the disposition of public real property in the Commonwealth (House, No. 4854). Referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Subsequently Mr. Scaccia of Boston, for said committees, reported, asking to be discharged from further consideration of the order; and recommending that the same be referred to the House committee on Rules. Under Rule 42, the report was considered forthwith; and it was accepted.

Transportation
system.

By Mr. Wagner of Chicopee, for the committee on Transportation, on the residue of House, No. 4507, a Bill to restructure the transportation system of the Commonwealth (House, No. 4855) [Senators Chandler, Hart, McGee, Wilkerson and Hedlund, and Representative Evangelidis of Holden, dissenting]. Read; and referred, under Rule 33, to the committee on Ways and Means.

Mr. Rogers of Norwood, for the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text of contained in Senate document numbered 2401) of the House Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for the interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4601), reported, in part, a Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4850)

[Appropriations: \$21,294,598,057; Retained Revenue: \$1,210,239,113; Total Appropriations: \$22,504,837,170].

Placed in the Orders of the Day for the next sitting, the question being on acceptance.

Engrossed Bill.

The engrossed Bill relative to the dissemination of criminal offender record information to the operators of camps for children (see House, No. 4610, amended) (which originated in the House, in respect to which the Senate had concurred in adoption of the emergency preamble, was passed to be enacted, and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

House bills

Providing for dissection choice in the public schools (House, No. 1252, amended) (its title having been changed by the committee on Bills in the Third Reading);

Relative to the charter of the city of Lawrence (House, No. 4195) (its title having been changed by the committee on Bills in the Third Reading);

Relative to electric transmissions in the Commonwealth (House, No. 4432) (its title having been changed by the committee on Bills in the Third Reading);

Relative to the administrative judges of the Division of Industrial Accidents (House, No. 4465); and

Authorizing the town of Easton to pay a certain unpaid bill (House, No. 4498);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

Senate bills

Relative to retirees' group health insurance premium contributions in the city of Waltham (Senate, No. 2001);

Authorizing the town of Rockland to grant 3 additional licenses for the sale of all alcoholic beverages to be drunk on the premises (Senate, No. 2072);

Authorizing the Division of Capital Asset Management and Maintenance to transfer a certain parcel of conservation/recreation land within the town of Sandwich (Senate, No. 2117);

Authorizing the towns of Dennis and Brewster to grant conservation restrictions to the Department of Conservation and Recreation (Senate, No. 2196); and

Relative to certain consumer transactions and the satisfaction of security interests (Senate, No. 2238); and

House bills

To clarify eligibility for health insurance for school employees (House, No. 241);

Relative to settlement and incorporation celebrations of cities and towns (House, No. 1150);

General
Appropriation
Bill.

Second
reading
Bill.

Third
reading
Bill.

Second
reading
title.

To protect the public from condemned, vicious dogs (House, No. 1439);
 Establishing uniform primary procedures for unenrolled voters (House, No. 2229);
 Permitting breast-feeding in public (House, No. 3358);
 Regarding the authorization for possession by law enforcement agencies and sales to law enforcement agencies of electronic weapons (House, No. 3400);
 Relative to regional health care (House, No. 3752);
 Relative to the Franklin County Regional Housing and Redevelopment Authority (House, No. 4040);
 Authorizing the town of Lakeville to establish a consultant account (House, No. 4086);
 Merging the Woodland Water District of Auburn with the Auburn Water District (House, No. 4333);
 Establishing a capital investment fund in the town of Winchendon (House, No. 4338);
 Relative to the legal dates for operating a motor vehicle with metal studded tires (House, No. 4397);
 Relative to the charter of the city known as the town of Watertown (House, No. 4399);
 Authorizing the treasurer of the town of Brookline to invest the trust funds of said town in accordance with the Prudent Man Rule (House, No. 4400);
 Relative to the school department in the town of Fairhaven expending revenue derived from advertising in schools without further appropriation by the town (House, No. 4401, changed);
 Relative to the town of Marion apportioning sewer assessments over a maximum of thirty annual payments and changing interest at a rate of interest chargeable to the town (House, No. 4402);
 Validating certain health insurance payments made by the town of Orleans (House, No. 4427);
 Relative to the appointment of retired police officers within the town of Mashpee police department (House, No. 4441);
 Validating the action taken at a special town meeting held by the town of Williamsburg (printed in House, No. 4445);
 Authorizing the town of Hamilton to convey certain land (House, No. 4449);
 Authorizing the town of Wayland to incur certain debt (House, No. 4450);
 Relative to certain land sales in the city of Gloucester (House, No. 4451);
 Relative to kayaks (House, No. 4456, changed);
 Authorizing the town of Ashby to establish a capital reserve account (House, No. 4474);
 Authorizing the town of Leominster to grant a certain abatement (House, No. 4499);
 Relative to the appointment of certified harbormasters in the Commonwealth (House, No. 4588); and
 Providing for abatement of taxes caused by a fire in the city of Peabody on December 18, 2003 (House, No. 4611);
 Severally were read a second time; and they were ordered to a third reading.

The Senate Bill relative to special veterans plates (Senate, No. 2338), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Veterans
plates.

Pending the question on passing the bill to be engrossed, in concurrence, Miss Garry of Dracut moved that it be amended by adding at the end thereof the following section:

“SECTION 4. The registrar shall furnish without charge to owners of private passenger motor vehicles, who are parents, children or spouses of members of the military who were killed in action upon presentation of satisfactory evidence of such status as determined by the registrar, distinctive registration plates that read ‘Gold Star Family’ for one private passenger motor vehicle owned and principally used by such persons.”

The amendment was adopted; and the bill (Senate, No. 2338, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment.

The House Bill placing certain school department positions in the city of Gardner under the civil service law (House, No. 4204), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Gardner
school
department.

Pending the question on passing the bill to be engrossed, Mr. Kuntula of Gardner moved that it be amended by striking out all after the enacting clause and inserting in place thereof the following:

“The positions of clerical paraprofessional, guidance clerical paraprofessional and Title I clerical paraprofessional in the public school department of the city of Gardner shall be subject to the provisions of chapter 31 of the General Laws and any person in said positions shall be granted civil service status from their date of initial employment. The human resources division within the executive office for administration and finance shall reclassify such positions as clerk or typist or senior clerk and typists.”

The amendment was adopted; and the bill (House, No. 4204, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Recess.

At twenty-four minutes before twelve o’clock noon, on motion of Mr. Peterson of Grafton (Mrs. Walrath of Stow being in the Chair), the House recessed until the hour of one o’clock P. M.; and at twenty-eight minutes before two o’clock the House was called to order with Mr. O’Flaherty of Chelsea in the Chair.

The Speaker being in the Chair, — the Senate Bill further regulating public construction in the Commonwealth (Senate, No. 2338, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Public
construction.

Pending the question on passing the bill to be engrossed, in concurrence, Mr. Walsh of Boston moved that it be amended in section 25, in line 3, by striking out the following: “sections 15 to 21, inclusive, of”, and the amendment was adopted.

Quorum.

Mr. Jones of North Reading then asked for a count of the House to ascertain if a quorum was present. The Speaker, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum,
yea and nay
No. 659.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 153 members were recorded as being in attendance.

[See Yea and Nay No. 659 in Supplement.]

Therefore a quorum was present.

Bill passed
to be
engrossed,
yea and nay
No. 660.

After debate on the question on passing the bill to be engrossed, in concurrence, as amended, the sense of the House was taken by yeas and nays, at the request of Mr. Walsh of Boston; and on the roll call (Mr. DiMasi of Boston being in the Chair) 155 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 660 in Supplement.]

Therefore the bill (Senate, No. 2358, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment.

Drunk
driving,
repeat
offenders.

The House Bill relative to repeat offenders (House, No. 4183) was read a second time.

The amendment previously recommended by the committee on Ways and Means,—that the bill be amended by substitution of a bill with the same title (House, No. 4843),—was considered.

Pending the question on adoption of the amendment, Mr. Vallee of Franklin moved that the proposed substitute bill be amended by adding at the end thereof the following 4 sections:

“SECTION 11. Section 24 of chapter 90 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting in line 66, after the word ‘ninety-three’ the following words:— provided, however, that any such intermediate sanction shall consist of not less than 30 days of community service or not less than 5 days of imprisonment.

SECTION 12. Said section 24 of said chapter 90, as so appearing, is hereby further amended by inserting, in line 99, after the word ‘ninety-three’ the following words:— provided, however, that any such intermediate sanction shall consist of no less than an assignment of not less than 60 days of community service or not less than 10 days or imprisonment.

SECTION 13. Said section 24 of said chapter 90, as so appearing, is hereby amended by inserting, in line 133, after the word ‘ninety-three’ the following words:— provided, however, that any such intermediate sanction shall consist of no less than an assignment of not less than 60 days of community service or not less than 10 days of imprisonment.

SECTION 14. Said section 24 of said chapter 90 of the General Laws, as so appearing, is hereby amended by inserting, in line 167, after the word ‘ninety-three’ the following words:— provided, however, that any such intermediate sanction shall consist of no less than an assignment of not less than 60 days of community service or not less than 10 days of imprisonment.”

The further amendment was adopted. The amendment, as amended, then also was adopted; and the substituted bill (House, No. 4843, amended) was ordered to a third reading.

Subsequently, under suspension of the rules, on further motion of Mr. Vallee, the bill (having been reported by the committee on Bills in the Third Reading) was read a third time, its title having been changed by said committee to read: “An Act relative to repeat offenders of driving under the influence of alcohol.”

After debate the bill (House, No. 4843, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Order.

On motion of Mr. Finnegan of Boston,—
Ordered. That when the House adjourns today, it adjourn to meet tomorrow at one o’clock P. M.

Next
sitting.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at seven minutes before five o’clock P. M., on motion of Mr. Cabral of New Bedford (Mr. DiMasi of Boston being in the Chair), the House adjourned, to meet tomorrow at one o’clock P. M.